



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on September 1, 2000

**NOTICE OF ACTION TAKEN --DOCKET OST 2000-7814  
DOCKET OST 2000-7559**

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This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint application of **United Parcel Service Co. & Challenge Air Cargo, Inc.** filed **8/16/00** in **Docket OST-00-7814** for:

**XX** Exemption or Waiver from dormancy condition:

Challenge and UPS in Docket OST-2000-7814 request a dormancy waiver of one of their U.S.-Brazil all-cargo frequencies for a period of one year until August 16, 2001.<sup>1</sup> They state that "Challenge (then UPS when it obtains its license from Brazil) intends to use immediately 3.5 of the 4.5 frequencies and requests an exemption or waiver of the 90-day dormancy provision with respect to one of the frequencies for a period of one (1) year."

Polar Air filed an answer to the UPS/Challenge application, noting that it too would like similar relief with respect to any of Polar's allocation of five U.S.-Brazil all-cargo frequencies that the Department may deem dormant.

In a reply dated August 30, 2000, UPS/Challenge state that should the Department determine that UPS and Challenge have fewer than 4.5 frequencies, UPS and Challenge request that the Department immediately authorize UPS and Challenge to operate 4.5 frequencies (with the dormancy waiver for one frequency) pending a decision in Docket OST-2000-7559.

Applicant rep: **William H. Callaway, Jr. (Challenge), 202-298-8660 & David L. Vaughan (UPS), 202-955-9600** DOT analyst: **Linda Senese 202-366-2367**

**DISPOSITION**

**XX** Exemption/Waiver Request Dismissed. (See Remarks)

**XX** Challenge/UPS Request for immediate *pendente lite* grant of additional frequencies dismissed. (See Remarks)

The above action was effective when taken: **September 1, 2000**

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation  
(See Reverse Side)**

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<sup>1</sup> The Challenge/UPS original application inadvertently stated .5 of one frequency. However, in a reply dated August 30, 2000, the applicants correct the request to reflect that the waiver is for 1 (one) frequency.

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**Remarks:** In a submission of July 5, 2000 in Docket OST-2000-7559, UPS/Challenge provided information demonstrating that 2.5 of the 4.5 frequencies allocated to Challenge as of August 14, 1998, had since become dormant and reverted to the Department. Thus, at the time Challenge sought to transfer its frequencies to UPS, it had only two frequencies left to transfer—not 4.5.<sup>2</sup> It is our understanding that Challenge is actively using its two frequencies. In these circumstances, we do not find grant of the Challenge/UPS request for an immediate *pendente lite* allocation of frequencies to be consistent with the public interest. Further, in light of this determination, we find that the Challenge/UPS request for a dormancy waiver is moot, and we have dismissed it. As noted in the Department's August 25, 2000 Notice shortening the answer period in Docket OST-2000-7584, the matter of what frequencies are available for reallocation for U.S.-Brazil services is before the Department in Docket OST-2000-7559. The Department will issue a subsequent order in that docket, including a determination on the issue of allocation of additional frequencies.

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and consistent with Department policy; and (2) dismissal of the authority was consistent with the public interest. We may amend, modify, or revoke the action taken in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:*  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)

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<sup>2</sup> Notwithstanding the language of Order 2000-6-7, the Department only transferred that which Challenge possessed, namely, two frequencies.